

DISTRICT COURT, DENVER COUNTY, COLORADO 1427 Bannock Street, Room 256 Denver, Colorado 80202	COURT USE ONLY EFILED Document CO Denver County District Court 2nd JD Filing Date: Aug 26 2011 4:22PM MDT Filing ID: 39519991 Review Clerk: Ashley Landis
STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL, Plaintiff, v. RMI INC. (RECOVERMYINVESTMENT) , DAILY DEAL 360, INC AND RUSSELL BRYANT, III, INDIVIDUALLY, AND DAMON SMITH, INDIVIDUALLY, Defendants.	
	Case No.: 11CV5975 Ctrm: 269
TEMPORARY RESTRAINING ORDER	

The Court, having reviewed the Complaint, Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, the supporting Affidavits appended to the Motion,

FINDS that a temporary restraining order should be entered for the following reasons:

1. This Court has jurisdiction in the matter presented herein by virtue of Colo. Rev. Stat. § 6-1-110(1), and Rule 65, C.R.C.P.
2. This Court is expressly authorized to issue a Temporary Restraining Order to enjoin ongoing violations of the Colorado Consumer Protection Act ("CCPA") by Colo. Rev. Stat. § 6-1-110(1) (2011):

Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any

unjust enrichment by any person through the use or employment of any deceptive trade practice.

Colo. Rev. Stat. § 6-1-110(1). *See also* Colo. Rev. Stat. §§ 5-6-111 and 113.

3. Under Rule 65(b), it clearly appears from specific facts shown by affidavit or by testimony that immediate and irreparable injury, loss, or damage will result before the adverse parties or their attorneys can be heard in opposition.

4. Plaintiffs have shown from specific facts by affidavit or by testimony that Defendants' deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. Ct. App. 2001); *Lloyd A. Fry Roofing Co. v. State Dept. of Air Pollution*, 553 P.2d 200 (Colo. 1976); *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982). Immediate and irreparable injury to additional consumers will occur without a temporary restraining order because Defendants may continue to obtain money from consumers through deceptive and misleading representations. As the consumer affidavits and Complaint set forth, many consumers have relied on Defendants' misrepresentations regarding their abilities to help consumers obtain refunds from their prior financial relationships with Russ Dalbey and his company.

5. Defendants will suffer no undue hardship by the entry of a temporary restraining order or preliminary injunction because Defendants have no right to continue to engage in unlawful and deceptive trade practices in the state of Colorado, or to collect money from consumers as a result of such unlawful and deceptive conduct in violation of the CCPA. Defendants additionally have no right to operate in violation of the Uniform Consumer Credit Code, the Colorado Credit Services Organization Act, and the federal Credit Repair Organizations Act. Furthermore, Defendants have no right to unjustly benefit from their unlawful behavior. Without an injunction, Plaintiffs will be unable to adequately protect the public from Defendants' ongoing illegal activities.

6. C.R.C.P. 65(b) allows the entry of a temporary restraining order without written or oral notice to Defendants if it clearly appears from the facts shown by affidavit that immediate and irreparable injury, loss or damage will result from giving said notice. In view of the continuing and serious harm to consumers, the entry of a temporary restraining order without notice to Defendants is necessary and appropriate.

7. Pursuant to Rule 65(c) C.R.C.P., Plaintiffs are not required to provide a security bond.

IT IS HEREBY ORDERED PURSUANT TO § 6-1-110(1) AS FOLLOWS:

A. Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation with Defendants who receive actual notice of the Court's order including, but not limited to, Russell Bryant, Damon Smith, RMI Associates Inc., and Daily Deal 360 Inc. are enjoined from:

1. Soliciting or accepting payment for services of any kind in connection with assisting consumers in restitution recovery, or acting as consumer advocates.
2. Advertising, selling, marketing, displaying, offering or performing restitution recovery assistance or acting as consumer advocates.
3. Publishing, broadcasting, distributing or disseminating any information, including written, oral, or video, relating to consumer assistance, or consumer advocacy.
4. Performing, supervising, or otherwise participating consumer advocacy or consumer restitution assistance.

B. Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation with Defendants who receive actual notice of the Court's order including, but not limited to, Russell Bryant III, Damon Smith, RMI, and Daily Deal 360 are required to:

1. Deactivate within forty-eight (48) hours of the Order all Internet sites, domain names, URL addresses, registrations, and any other forms or materials that advertise, market or solicit any business relating to consumer restitution assistance or consumer advocacy including but not limited to recovermyinvestment.com
2. Within five calendar days of the entry of the Order, withdraw from collections any and all consumer accounts that Defendants had previously referred to a collections agency;
3. Notify all current clients of the Order in writing by e-mail sent no later than September 19, 2011, or at such other date that may be determined at the conclusion of the preliminary injunction hearing, and United States mail, first-class postage prepaid, postmarked no later than September 19, 2011, or at such later date that may be determined at the conclusion of the preliminary injunction hearing, attaching and enclosing this Order.
4. Provide a status report and certification to the Court by September 21, 2011, or at such other date that may be determined at the preliminary injunction hearing, that Defendants have complied with the foregoing (1) through (4).

C. In view of Defendants' fraudulent and deceptive practices perpetrated in and outside Colorado, it is necessary and appropriate for the Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation with Defendants who receive actual notice of the Court's order including, but not limited to, Russell Bryant III, Damon Smith, RMI, Daily Deal 360, are enjoined from:

1. Withdrawing, transferring or otherwise encumbering any funds from any account, including but not limited to those accounts in Defendants' names, at any financial institution into which Defendants or their officers, directors, agents, servants, employees, independent contractors or any other persons in active concert or participation with Defendants order including, but not limited to, Russell Bryant III, Damon Smith, RMI, Daily Deal 360, deposited or transferred money received from consumers as a result of Defendants' deceptive business practices;

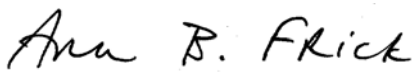
2. Negotiating any checks, money orders, wire transfers, drafts, or other negotiable instruments received by Defendants or their officers, directors, agents, servants, employees, independent contractors or any other persons in active concert or participation with Defendants including, but not limited to, Russell Bryant III, Damon Smith, RMI, Daily Deal 360, as a result of Defendants' business practices;
3. Depositing or processing any credit card and debit card receipts obtained by Defendants or their officers, directors, agents, servants, employees, independent contractors or any other persons in active concert or participation with Defendants including, but not limited to, Russell Bryant III, Damon Smith, RMI, Daily Deal 360, obtained from any consumer; and
4. Spending, transferring, giving away, or in any way disposing of any monies received by Defendants or their officers, directors, agents, servants, employees, independent contractors or any other persons in active concert or participation with Defendants including, but not limited to, Russell Bryant III, Damon Smith, RMI, Daily Deal 360, as a result of Defendants' business practices.

ENTERED this 26th day of August, 2011, at 4:00 o'clock.

In accordance with Rule 65(b) of the Colorado Rules of Civil Procedure, this Order expires by its terms within such time after entry not to exceed ten calendar days, as the Court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.

Subject to the foregoing and unless otherwise directed by the Court, this Order shall expire on September 7, 2011, at 11:59 pm.

BY THE COURT:



District Court Judge